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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,370	01/15/2002	Dennis J. Michaelson	STES 105	7535
21658 7590 07/03/2008 DYKAS, SHAVER & NIPPER, LLP P.O. BOX 877 BOISE, ID 83701-0877				
EXAMINER				
CHORBAJ, MONZER R				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
07/03/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/050,370

**Applicant(s)**

MICHAELSON ET AL.

**Examiner**

MONZER R. CHORBAJI

**Art Unit**

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 April 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 25-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 and 25-31 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 15 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

**This final action is in response to the amendment received on 4/1/08**

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 25 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittrock et al (U.S.P.N. 5,482,067) in view of Williams et al (U.S.P.N. 4,915,913).

Regarding claim 25, Wittrock discloses a double hinge (figure 2:40, 14 and 12) for connecting a flat two-dimensional top cover (figure 2:12 and unlabeled length and width of the top cover in figure 2) to a cassette (figure 2:14) having opposing side bottom and end walls and a pair of opposing latch assemblies (figure 1:72 and col.5, lines 59-61 where the top cover 12 has a latch assembly 72 and the cassette 14 has a latch assembly as shown in figure 1). At least a first pair of opposing sides (unlabeled front and back opposing sides of bottom wall 24, which represents bottom frame 14 as shown in figure 1) is fixedly attached to edges of said bottom (bottom wall 24 is fixed to bottom 26 and is also perpendicular to bottom 26 as shown in figure 2) and oriented essentially perpendicular to said bottom and perpendicular to a second pair of opposing sides (front and back sides of 24 are perpendicular to unlabeled sides of 24 as shown in figure 1). Each of the opposing pair of latch assemblies is located on the first pair of opposing sides (figure 1:16 and 24 where in col.5, lines 58-61, Wittrock teaches that each latch assembly 72 snaps over the opposite wall and for this to occur latch assemblies 72 are located on opposing side walls 16 and 24) such that one of the opposing latch assembly (upper latch assembly 72 in figure 1) is located on the first pair of opposing sides (side wall 16 in figure 1) while the other opposing latch assembly (lower latch assembly 72 in figure 1) is located on another side of the first pair of opposing sides (side wall 24 in figure 1). Each of the opposing latch assemblies (each

latch assembly is considered as 72 in figure 1) has its own latch detent (unlabeled upper parts of opposing side walls 16 and 24 in figure 1, which tab assemblies snap over as taught in column 5, lines 59-61). The double hinge includes a first hinge (figure 2:62) pivotally connected to side wall (unlabeled end wall of cassette 14 in figure 2) and also pivotally connected to hinge plate (figure 2:42). Hinge plate has a length and a width (unlabeled length and width of hinge plate 42 in figure 2), and is pivotally connected between first and second hinges (figure 2:62, 42 and 60). Second hinge is pivotally connected to hinge plate (figure 2:60 and 42) and to the top cover (figure 2:60 and 12). Furthermore, Wittrock teaches that the hinge allows the top cover to lay flat upon the same surface that the bottom wall also rests upon (figure 2:14 and 12). In addition, Wittrock discloses two positions where the closed position is shown in figure 4 and the first position (open position) is displayed in figure 2. In this first position, the first hinge and the second hinge are in the same vertical plane upon rotating figure 2 of Wittrock. Furthermore, Wittrock teaches that the top is folded beneath the bottom of the container (col.5, lines 41-45). In addition, the pair of the opposing latch assemblies (figure 1:72) are capable of being pushed by two opposing pressures (for example, applying pressure in an upward direction to one latch assembly 72 while applying pressure in a downward direction to the other latch assembly 72 in figure 1) forces so that the second hinge (figure 2:60) is moved from a closed position (as shown in figure 4) to an open position (as shown in figure 2). Wittrock fails to teach the following: the container further having a plurality of extensions attached to said top, said extensions extending away from said top, said extensions being oriented essentially perpendicular

to said top, said bottom, and said second pair of opposing sides, each of said extensions being configured to overlap a portion of said first pair of opposing sides when said top is in said closed position, and said extensions being further configured to be of a greater height than said top when said container is in said first open position.

Williams discloses a sterilizer cassette (figure 12:2) having the following: having a plurality of extensions (figure 13:206, 200, 202, and 214) attached to said top (figure 13:C), said extensions extending away from said top (extension 202 in figure 13 extends away from top C), said extensions being oriented essentially perpendicular to said top (in figure 13, extensions 202 are perpendicular to top C), said bottom (in figure 13, extensions 202 are perpendicular to unlabeled bottom of sterilizer 2), and said second pair of opposing sides (in figure 13, extensions 202 are perpendicular to opposing sides 12), each of said extensions (202) being configured to overlap a portion of said first pair (figure 13:212) of opposing sides (figure 12:16) when said top (figure 13:C) is in said closed position in order to provide an improved latch mechanism which affords tamper-evident control to determine and verify whether or not the case has been opened for whatever cause, and if opened, whether the contents of the case has been sterilized (col.2, lines 19-23). In addition, Williams discloses that the extensions (202) are further configured to be of a greater height than said top when said container is in said first open position (the length of the height of extensions 202 is greater than the length of the height of cover C). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the container in Wittrock with the latch mechanism in order to provide an improved latch mechanism which affords tamper-

evident control to determine and verify whether or not the case has been opened for whatever cause, and if opened, whether the contents of the case has been sterilized as explained by Williams (col.2, lines 19-23).

Regarding claims 30-31, Wittrock's double hinge (figure 2:42) assembly is capable of making contact with portions of either bottom (figure 2:14) or top (figure 2:12) upon full rotation of either of first hinge (figure 2:62) or second hinge (figure 2:60) where the top part is folded underneath the bottom part (col.5, lines 41-45). See MPEP 2114.

5. Claims 1 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittrock et al (U.S.P.N. 5,482,067) in view of Dabich (U.S.P.N. 4,535,908) and further in view of Williams et al (U.S.P.N. 4,915,913).

Regarding claim 1, Wittrock discloses a double hinge (figure 2:40, 14 and 12) for connecting a flat two-dimensional top cover (figure 2:12 and unlabeled length and width of the top cover in figure 2) to a sterilization cassette (figure 2:14) having opposing side bottom and end walls and a pair of opposing latch assemblies (figure 1:72 and col.5, lines 59-61 where the top cover 12 has a latch assembly 72 and the cassette 14 has a latch assembly as shown in figure 1), each of said pair of opposing side walls (unlabeled front and back opposing sides of bottom wall 24, which represents bottom frame 14 as shown in figure 1) being fixedly attached to edges of said bottom wall (bottom wall 24 is fixed to bottom 26 and is also perpendicular to bottom 26 as shown in figure 2) and oriented essentially perpendicular to said bottom wall and perpendicular to opposing end walls (front and back sides of 24 are perpendicular to unlabeled sides of 24 as shown in figure 1). Each of the opposing latch assemblies located on one of the

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pair of opposing side walls (figure 1:16 and 24 where in col.5, lines 58-61, Wittrock teaches that each latch assembly 72 snaps over the opposite wall and for this to occur latch assemblies 72 are located on opposing side walls 16 and 24). Each of the opposing latch assemblies (each latch assembly is considered as 72 in figure 1) has its own latch detent (unlabeled upper parts of opposing side walls 16 and 24 in figure 1, which tab assemblies snap over as taught in column 5, lines 59-61). The double hinge includes a first horizontally oriented hinge portion (figure 2:62) interconnected to the end wall (unlabeled end wall of cassette 14 in figure 2) and the top cover (figure 2:12, 62 and 42), if the pair of opposing latch assemblies are located on opposing side walls (figure 1:16, 24 and 72), dividing the end wall (unlabeled end wall of cassette 14 in figure 2) into upper (figure 2, unlabeled upper part of cassette 14) and lower (figure 2, unlabeled lower part of cassette 14) halves and a second hinge portion (figure 2:60) oriented in juxtaposed relationship to the first hinge (figure 4 where two unlabeled hinges are in juxtaposed relationship to one another). Wittrock's top cover (figure 2:12) is connected to the cassette (figure 2:14) by a double hinge assembly (figure 2:62 and 60). Furthermore, Wittrock teaches that the hinge allows the top cover to lay flat upon the same surface that the bottom wall also rests upon (figure 2:14 and 12) or for the top cover to be folded beneath the bottom wall of the cassette (col.5, lines 41-44). Also, the pair of the opposing latch assemblies (figure 1:72) are capable of being pushed by two opposing pressure (for example, applying pressure in an upward direction to one latch assembly 72 while applying pressure in a downward direction to the other latch assembly 72 in figure 1) forces so that the top cover is moved from a closed position to



an open position. Wittrock fails to teach the following: the second hinge divides the top cover into two interconnected pieces, a plurality of extensions attached to said top cover, said extensions extending away from said top cover, said extensions being oriented essentially perpendicularly to said top cover, said bottom wall, and said pair of opposing end walls, each of said extensions being configured to overlap a portion of one of said pair of opposing side walls when said top cover is in said closed position, said extensions being further configured to be of a greater height than said top cover when said top cover is laid flat upon said same surface upon which said bottom wall also rest.

Dabich, which is in the art of designing lids, teaches the use of double hinge lids where the second hinge (figure 6:30) divides the top cover into two interconnected pieces (figure 6:18 and 20) because a double hinge mechanism results in opening the inner lid with one hand by most users (col.4, lines 27-33). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cassette in Wittrock with the second hinge that divides the top cover into two interconnected pieces because a double hinge mechanism results in opening the inner lid with one hand by most users as shown by Dabich (col.4, lines 27-33).

As to the limitation that the top cover piece attached to the end wall be of the same width and length as the end wall, the disclosure does not provide a criticality for this feature. The disclosure as a whole teaches that the advantage of having double hinge is to enable folding the top cover beneath the bottom container. This mechanism is disclosed in Wittrock (col.5, lines 41-44). It is further noted that it is known in the art of

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designing hinges to vary size of the hinge plates (see MPEP 2114 and MPEP 2144.04, IV).

Dabich fails to teach the following: a plurality of extensions attached to said top cover, said extensions extending away from said top cover, said extensions being oriented essentially perpendicularly to said top cover, said bottom wall, and said pair of opposing end walls, each of said extensions being configured to overlap a portion of one of said pair of opposing side walls when said top cover is in said closed position, said extensions being further configured to be of a greater height than said top cover when said top cover is laid flat upon said same surface upon which said bottom wall also rest.

Williams discloses a sterilizer (figure 12:2) having the following: having a plurality of extensions (figure 13:206, 200, 202, and 214) attached to said top (figure 13:C), said extensions extending away from said top (extension 202 in figure 13 extends away from top C), said extensions being oriented essentially perpendicular to said top cover (in figure 13, extensions 202 are perpendicular to top C), said bottom wall (in figure 13, extensions 202 are perpendicular to unlabeled bottom of sterilizer 2), and said pair of opposing end walls (in figure 13, extensions 202 are perpendicular to opposing sides 12), each of said extensions (202) being configured to overlap a portion of one of said pair (figure 13:212) of opposing side walls (figure 12:16) when said top cover (figure 13:C) is in said closed position in order to provide an improved latch mechanism which affords tamper-evident control to determine and verify whether or not the case has been opened for whatever cause, and if opened, whether the contents of the case has been

sterilized (col.2, lines 19-23). In addition, Williams discloses that the extensions (202) are further configured to be of a greater height than said top cover (cover C in figure 13) when said top cover is (top cover is capable of being placed on its back wall on the same surface upon which the unlabeled bottom of sterilizer 2 rests) laid flat upon said same surface upon which said bottom wall also rests. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the modified cassette in Wittrock/Dabich with the latch mechanism in order to provide an improved latch mechanism which affords tamper-evident control to determine and verify whether or not the case has been opened for whatever cause, and if opened, whether the contents of the case has been sterilized as explained by Williams (col.2, lines 19-23).

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wittrock et al (U.S.P.N. 5,482,067) in view of Williams et al (U.S.P.N. 4,915,913) as applied to claim 25 and further in view of Dabich (U.S.P.N. 4,535,908).

Wittrock and Williams fail to teach that the hinge plate of the two-hinge assembly is a portion of the top of the container. Dabich teaches the use of a double hinge lids since double hinge mechanism results in opening the inner lid with one hand by most users (col.4, lines 27-33). Dabich further teaches that the second hinge (figure 6:30) divides the top cover into two interconnected pieces (figure 6:18 and 20) where piece 18 in figure 2 represents a hinge plate, which is part of the top. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the modified hinge structure in Wittrock/Williams with an additional double hinge closing mechanism

since double hinge mechanism results in opening the inner lid with one hand by most users as taught by Dabich (col.4, lines 27-33).

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wittrock et al (U.S.P.N. 5,482,067) in view of Williams et al (U.S.P.N. 4,915,913) as applied to claim 25 and further in view of Kirksey (U.S.P.N. 4,576,281).

Wittrock and Williams fail to teach that the length of the hinge plate of the two-hinge assembly is equal in length of one of the opposing sides. Kirksey, which is in the art of designing hinged closing/opening structures, teaches that the hinge plate (figure 1:36) is equal in length to the unlabeled opposite front end of wall 28 in figure 1) so that better alignment of the top and bottom parts is obtained during the handling of container. It would have been obvious to one of ordinary skill in the art at the time of the invention to fully lengthen the modified hinge plate in Wittrock/Williams from one end of the container to the other so that better alignment of the top and bottom parts is obtained during the handling of container as shown by Kirksey (figure 2:36).

8. Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittrock et al (U.S.P.N. 5,482,067) in view of Williams et al (U.S.P.N. 4,915,913) as applied to claim 25 and further in view of DeCoster (U.S.P.N. 4,723,693).

Wittrock and Williams fail to teach that the width of the hinge plate of the two-hinge assembly is equal to the width of one of the opposing sides or that the width of the hinge plate is equal to one half of the width of one of the opposing sides. DeCoster teaches that the width of hinge plate 54 in figure 4 is equal to the width of the bottom of container 12 in figure 1. This bottom is not shown in the drawings. Depending on the

depth of the bottom of the container (figure 1:12), the width of the hinge plate is capable of being equal to one half of the width of this bottom. It would have been obvious to one of ordinary skill in the art at the time of the invention to shorten the width of the modified Wittrock/Williams hinge plate to the same dimension as the container's width as taught by DeCoster so that Wittrock container can handle much smaller medical and dental items.

As to the limitation that the width of the hinge plate is equal to the width of is equal to one half the width of one of the opposing sides, the disclosure does not provide a criticality for this feature. The disclosure as a whole teaches that the advantage of having double hinge is to enable folding the top cover beneath the bottom container. This mechanism is disclosed in Wittrock (col.5, lines 41-44). It is further noted that it is known in the art of designing hinges to vary size of the hinge plates (see MPEP 2114 and MPEP 2144.04, IV).

### ***Response to Arguments***

9. Applicant's arguments filed on 4/1/08 have been fully considered but they are not persuasive.

On page 8 of the Remarks/Arguments section; Applicant argues that the snap-over walls in Wittrock do not both attach to edges of the bottom, but rather one is attached to the bottom, and another is attached to the top.

The examiner disagrees. Wittrock discloses a first pair of opposing sides (unlabeled front and back opposing sides of bottom wall 24, which represents bottom frame 14 as shown in figure 1) that are fixedly attached to edges of the bottom wall

(bottom wall 24 is fixed to bottom 26 and is also perpendicular to bottom 26 as shown in figure 2) and oriented essentially perpendicular to said bottom wall and is perpendicular to a second pair of opposing sides (front and back sides of 24 are perpendicular to unlabeled sides of 24 as shown in figure 1).

The newly applied Williams reference teaches a sterilizer cassette (figure 12:2) having the following: having a plurality of extensions (figure 13:206, 200, 202, and 214) attached to said top (figure 13:C), said extensions extending away from said top (extension 202 in figure 13 extends away from top C), said extensions being oriented essentially perpendicular to said top (in figure 13, extensions 202 are perpendicular to top C), said bottom (in figure 13, extensions 202 are perpendicular to unlabeled bottom of sterilizer 2), and said second pair of opposing sides (in figure 13, extensions 202 are perpendicular to opposing sides 12), each of said extensions (202) being configured to overlap a portion of said first pair (figure 13:212) of opposing sides (figure 12:16) when said top (figure 13:C) is in said closed position in order to provide an improved latch mechanism which affords tamper-evident control to determine and verify whether or not the case has been opened for whatever cause, and if opened, whether the contents of the case has been sterilized (col.2, lines 19-23). In addition, Williams discloses that the extensions (202) are further configured to be of a greater height than said top when said container is in said first open position (the length of the height of extensions 202 is greater than the length of the height of cover C). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the container in Wittrock with the latch mechanism in order to provide an improved latch mechanism which

affords tamper-evident control to determine and verify whether or not the case has been opened for whatever cause, and if opened, whether the contents of the case has been sterilized as explained by Williams (col.2, lines 19-23).

***Conclusion***

**10.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

**11.** A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

**12.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MONZER R. CHORBAJI** whose telephone number is (571)272-1271. The examiner can normally be reached on M-F 9:00-5:30.

**13.** If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

**14.** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jill Warden/  
Supervisory Patent Examiner, Art Unit 1797

/M. R. C./